IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 265 OF 1992

Jagannath G. Deshmukh & Ors. .Petitioners

Vs.

Laxmanrao M. Tamhane . ... Respondent

Mr. R. M. Haridas, Advocate for the Petitioners.

Mr. G. B. Karandikar, Advocate for the Respondent.

CORAM : D. G. DESHPANDE, J.

DATE : OCTOBER 5, 2006.

P.C.

. Heard the advocate for the Petitioner and the Respondent No.1. Petitioners are the legal hairs of original landlord Ganpatrao Deshmukh. He applied under Section 43-A(3) of the Bombay Tenancy and Agricultural Lands Act 1948 (hereinafter referred to as the Tenancy Act) before the Tahsildar Malsiras. While the matter was not finally concluded, original tenant Maruti Ganpatrao Tamhane died. Landlord made an application for bringing legal heirs of tenant on record. That application was allowed. Heirs challenged that order in appeal. Their appeal was dismissed. However, heirs again challenged said order before the Maharashtra Revenue Tribunal in the Revision Application. Revision Application was allowed on the ground that application for bringing legal heirs on record was not within time.

2. Even after hearing both advocates, it cannot

be said that MRT was justified in passing such an order. There is an issue of tenancy and rights involved in the case. As appellate Court has allowed the application for bringing Legal heirs on record, which was in the interest of the tenants, MRT was not justified in setting aside order, and held that the matter stands abated. The approach of the Maharashtra Revenue Tribunal should have been liberal and party should have been promoted to fight on merits. Therefore, in view of the matter, I pass following order.

ORDER

1. Petition is allowed.

2. Impugned order of the Maharashtra Revenue Tribunal, Pune, dated 21st November 1990 in Revision Application No.21 of 1981 is quashed and set aside. The order of brininging legal heirs on record is upheld.

3. The matter to proceed on merits before the trial Court. Rule is made absolute in the above terms.

[D. G. DESHPANDE, J.]